

COMMITTEE WORKSHOP
BEFORE THE
CALIFORNIA ENERGY RESOURCES CONSERVATION
AND DEVELOPMENT COMMISSION

In the Matter of:)
)
Committee-Proposed Changes to Data) Docket No.
Collection Regulations) 05-DATA-1
_____)

CALIFORNIA ENERGY COMMISSION
HEARING ROOM A
1516 NINTH STREET
SACRAMENTO, CALIFORNIA

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10:04 A.M.

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COMMISSIONERS PRESENT

Jackalyne Pfannenstiel, Presiding Member

John Geesman, Associate Member

ADVISORS PRESENT

Timothy Tutt

Melissa Jones

STAFF and CONTRACTORS PRESENT

Chris Tooker

Caryn Holmes

Mike Jaske

Andrea Gough

ALSO PRESENT

Andrew Brown, Attorney (via teleconference)
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Constellation Energy

Douglas Kerner
Independent Energy Producers Association

Bruce McLaughlin, Attorney
Braun & Blaising, P.C.
California Municipal Utilities Association

Greg Klatt (via teleconference)
Alliance for Retail Energy Markets

Kathy Treleven
Pacific Gas and Electric Company

Nick Zettel
Redding Electric Utility
City of Redding

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P R O C E E D I N G S

10:04 a.m.

PRESIDING MEMBER PFANNENSTIEL: Good morning; this is the Integrated Energy Policy Report Committee workshop on the data collection regulations. And, in fact, we are back again. This is the fourth Committee workshop on the data collection regs. And a new version was posted August 14th, I believe.

I am Commissioner Jackie Pfannenstiel; I am the Presiding Member of the Integrated Energy Policy Report Committee. To my right is Commissioner John Geesman; and to his right is his Advisor, Melissa Jones. And to my left is my Advisor, Tim Tutt.

With that, I think we will hand it to Chris and Caryn to walk through the proposed regs.

DR. TOOKER: Thank you very much. I just wanted to mention that today's workshop is being webcast on the Commission's website and we do have people calling in by phone.

As a result of the workshop held on July 10th at which we discussed staff's most recent proposal, as well as a conference call on July 19th, the Committee chose to make a number of

1 changes to the regulations which we're discussing
2 today, including a number of changes to the
3 definitions; a 75-day filing time for POU's;
4 deletion of monthly data collection for the 1- to
5 10-megawatt facilities.

6 Limiting the scope of reporting
7 environmental violations; reinstituting section
8 1350 on exemptions; establishing a ten-year
9 forecasting requirement; reducing the time horizon
10 for resource adequacy reporting from four years to
11 one; deleting a requirement to file historical
12 price information; and lastly, creating an
13 additional category of automatically confidential
14 data by recognizing the requirements of the, or
15 the prohibitions of the Information Practices Act.

16 I would like to have Caryn Holmes, our
17 staff counsel, go through each of the sections, as
18 she has previously, in describing generally the
19 changes that were made. And we have staff
20 available if there are any questions regarding
21 those. Caryn.

22 MS. HOLMES: Thank you. Good morning.
23 Chris gave a concise summary of the changes. What
24 I'm going to be talking about, or what I'm going
25 to be identifying, is changes since the previous

1 version. In other words, I'm not describing
2 changes from the existing regs, as they exist in
3 Title 20, but from the previous public version I
4 just want to summarize the changes.

5 There were no changes in the
6 Commission's rules of practice and procedure. But
7 there were, as Chris pointed out, some changes to
8 the definitions. We responded to a couple of the
9 comments with respect to the definition of
10 customer and LSE.

11 We also added some definitions that we
12 felt were necessary in light of some of the new
13 substantive language in the regulations. There's
14 now a definition of distribution services and
15 transmission services and generation services.

16 I would point out that if you've got
17 concerns about those sections, would like to hear
18 about them, they may need to be refined slightly
19 to meet the requirements that the Office of
20 Administrative Law imposes on how things get
21 worded. So we'd like to hear if you've got
22 specific concerns about any of the new
23 definitions.

24 DR. TOOKER: Caryn, just let me make a
25 comment. Again, I would encourage all of those

1 who want to engage in discussion to come to the
2 table here that we've set up for you with
3 microphones. Doesn't appear to be a very big
4 crowd today, but we'd like to have you at the
5 table. Thank you.

6 MS. HOLMES: In addition, we responded
7 in section 1303 to a request that the filing
8 deadline for publicly owned utilities that operate
9 on a fiscal year basis be extended. We also
10 corrected the citations in section 1303.5.

11 With respect to the information that is
12 specified in section 1304, which is the power
13 plant reports, we had previously proposed to
14 collect monthly data on a quarterly basis for the
15 smaller facilities. And that requirement has been
16 lifted, so there will be no monthly data being
17 collected for the 1 to 10 megawatt facilities.

18 In addition, we added a size limitation
19 in section 1304(b) for the facilities that are
20 reported on by the UDCs. And that's new since
21 your last time around.

22 There have been some changes to 1305. I
23 believe they have solely been in an effort to
24 clarify some of the comments and concerns that
25 people raised, with one exception. There is a new

1 subdivision, subdivision (d) in 1305, which is
2 designed to collect information, for us to be able
3 to collect information about what happens when the
4 numbers of UDCs, or the UDCs within a control
5 area, change.

6 We just need to make sure that we have
7 complete information so that we can track what's
8 going on within the control areas as they're
9 defined at the end of the year and they file with
10 us.

11 With respect to section 1306, I believe
12 that's just clarifying changes that were made in
13 response to people's comments about making sure
14 that we're correctly distinguishing between
15 bundled service customer and unbundled customers.
16 That's another definition, as well, that's new in
17 1304, is bundled and unbundled customers.

18 We decided that with respect to the LNG
19 information there's enough going on in terms of
20 other interagency working groups that we would
21 hold off on any changes on LNG reporting and wait
22 until that process is finished. And then if it's
23 necessary we will conduct a subsequent rulemaking
24 to incorporate those changes. So there are no --
25 you can see that the LNG language has been pulled

1 out, but there are no other changes to 1306, '7,
2 '8, '9 and '10.

3 I don't believe there are any changes
4 with respect to section 1311. I believe that we
5 had worked with the municipal utilities on that
6 and got an agreement that the language is
7 acceptable.

8 Moving on to the CFM changes. We have
9 continued to work on section 1344, and the
10 language that you see on load metering there
11 reflects what we believe to be our understanding
12 of the availability of the data, based on our
13 conversations with the utilities. So, there are
14 some changes in there. I believe it's in
15 subdivision (d), because we wanted to make sure
16 that we weren't asking for something that simply
17 couldn't be provided.

18 With respect to 1345(s), Chris pointed
19 out there is now a ten-year demand forecast
20 period. It applies to both LSEs, both UDCs and
21 ESPs, as well as gas utilities. I expect that in
22 a given cycle the Commission will look at what is
23 likely to be available when it adopts forms and
24 instructions specifying the time. In other words,
25 the ten years is a maximum. And the Commission

1 has the flexibility, when it's appropriate, to
2 require less from some entities than from others.

3 With respect to section 1346, that has
4 been rewritten. And if there's a lot of questions
5 about that I'm going to hand them over to Dr.
6 Jaske, because he understands that section much
7 better than I do.

8 Section 1347 also reflects a ten-year
9 forecast period for UDCs and nonUDC LSEs. With
10 respect to the section 1348, the Committee has
11 dropped the request for historical price
12 information that was in a previous version.

13 In addition, in section -- excuse me --
14 Mike is correctly pointing out that previously
15 there had been a request in section 1347 that
16 incorporated information from generators about
17 forecasts, and that informational requirement has
18 been deleted from this version of the regulations.

19 Section 1350 has been reinstated. If
20 you'll recollect there had been, in the previous
21 version of the regulations, we had moved a partial
22 exemption into section 1342, I believe. And after
23 discussions with people at the workshop and in the
24 conference call we decided that we would retain
25 1350. The language has been amended slightly to

1 reflect the discussions that we had. It would
2 allow exemptions for most of the reporting
3 requirements provided we get the information for
4 section 1346.

5 I didn't discuss 1346, but I think that
6 Chris did correctly point out that it's a one-year
7 time horizon now in that section.

8 With respect to the confidentiality
9 regulations, we have added language to make it
10 explicit that governmental entities can file
11 applications for certification.

12 And with respect to the automatically
13 confidential categories, I believe that the ESP
14 data that's specified on page 77 was in a previous
15 version. But if it wasn't, it's there now. It
16 has to do with load forecasts, customer
17 projections, retail price that ESPs provide us.
18 In addition, we've pulled in fuel price data that
19 has been indicated or identified as needing to be
20 filed in another section. So that's just keeping
21 it consistent that that type of fuel cost data is
22 confidential.

23 And finally, because there's been so
24 much concern on the part of both UDCs and nonUDC
25 LSEs about customer information, we explicitly

1 added information whose release is prohibited by
2 the Information Practices Act.

3 With respect to other categories of
4 information the Committee at this time has decided
5 that it would be better to rely on the language in
6 the regulations that allows people to certify that
7 data is the same as other data that's already been
8 granted confidentiality, rather than having lots
9 and lots and lots and lots and lots of
10 specifically identified information in the
11 regulations. So that process is available for
12 those types of information which have received an
13 Executive Director-determination or a Commission-
14 determination of confidentiality.

15 And I believe that that is -- we also
16 corrected some of the aggregation language. There
17 had been some mistakes in that, and I don't
18 believe there's any controversy about that, but we
19 have clarified the aggregation language so that
20 the appropriate levels of aggregation have been
21 identified.

22 And I believe that that is a quick
23 summary of the changes.

24 DR. TOOKER: Thank you, Caryn. I just
25 want to mention that we received no written

1 comments on the Committee-proposed changes;
2 although we did receive this morning from Andy
3 Brown an email summarizing some of his, or IEP's
4 concerns. And I believe he's participating or
5 plans to participate by phone.

6 MR. BROWN: Yeah, Chris, this is Andy.
7 And they were sent in for Constellation.

8 DR. TOOKER: I'm sorry, Constellation.

9 MR. BROWN: And I do appreciate a number
10 of changes that are reflected in the Committee
11 draft. Some of the issues that were highlighted
12 in my email were associated with the fact that
13 there is some information that's asked for in the
14 regs from LSEs in the resource adequacy section
15 that seem to assume that the LSE has assets or
16 knows what assets will be used to provide resource
17 adequacy.

18 DR. TOOKER: Andy, I was just going to
19 say, we probably should go back to the beginning
20 and take comments per section, and then when yours
21 come that you can speak to those. Is that okay?
22 Andy?

23 MR. BROWN: That's fine, thanks.

24 DR. TOOKER: Okay. So, we summarized
25 and are now ready to take comments, if there are

1 any, on the sections. I would suggest we go
2 through that in order.

3 PRESIDING MEMBER PFANNENSTIEL: That's
4 fine. Why don't you and Caryn conduct the
5 discussion going through from the beginning. I'm
6 assuming that we're really just talking about the
7 changes from this version from the prior one,
8 rather than going all the way back to the
9 beginning and re-litigating.

10 DR. TOOKER: Correct. That's my
11 assumption and I have heard nothing to the
12 contrary.

13 PRESIDING MEMBER PFANNENSTIEL: Okay.
14 Then why don't we start through the changes that
15 we've made here.

16 MS. HOLMES: In the first section that
17 had changes to it, from the last version is
18 section 1304 -- excuse me, 1302, definitions.
19 Sorry.

20 There were some changes to definitions
21 in response to people's concerns, specifically, I
22 believe, with respect to customer and LSE. There
23 have been some new definitions added, including
24 bundled customer and unbundled customer
25 distribution services, generation services,

1 transmission services.

2 Does anybody have any comments about any
3 of the changes to section 1302?

4 MR. KERNER: Excellent work.

5 DR. TOOKER: Write that down.

6 (Laughter.)

7 MR. KLATT: Just one question I have was
8 we had raised a question about definitions, 1302,
9 subsection (6), the definition of customer. And
10 the reference to active bill account. And it just
11 wasn't clear to us whether if there's an active
12 bill account that has more than one meter, for
13 purposes of the customer account that is in the
14 quarterly report, if that should -- a customer
15 that has more than one meter should be counted by
16 the bill account or the number of meters. And
17 that wasn't clarified in the definition or in
18 1306. And it could be clarified in the forms and
19 instructions, but it's not --

20 DR. TOOKER: Andrea Gough is at the
21 table. She will address that. Gough.

22 MR. KLATT: Thank you.

23 MS. GOUGH: This is Andrea Gough, Energy
24 Commission Staff. The way we're viewing it, it's
25 ever the -- it's per account. So, if there is

1 more than one meter on that account, that would be
2 one customer. Does that make sense?

3 MR. KLATT: Yeah, that makes sense. And
4 I think that's probably the easiest way to do it.

5 MS. HOLMES: We had this discussion, as
6 I recollect, and I thought that this was the
7 resolution, because we were looking for the
8 account information.

9 So, Greg, with that discussion in mind,
10 is there any lack of clarity that's remaining that
11 you're concerned about?

12 MR. KLATT: No. As long as it's based
13 on, you know, if it's one account, one customer
14 then there's no -- that's clear. Thank you.

15 MS. HOLMES: Okay, thank you. Any other
16 comments on section 1302? Going once. Okay.

17 There were no changes to -- well, there
18 were changes to section 1303(m), but I believe
19 that they were of a clarifying nature only, and
20 that people were in agreement about what they
21 should be. Does anybody have any concerns about
22 1303(m)? And we also added the 75 days for the
23 municipal utilities.

24 MR. McLAUGHLIN: Right. Bruce
25 McLaughlin, CMUA. Thank you very much for the 75

1 days; that's actually what we requested.

2 Just I want to take the opportunity to
3 say one irrigation district did bring up that they
4 have certain bond statutes where they're not
5 required, on the retail side, to finalize their
6 information for six months. The wholesale is no
7 problem.

8 However, this utility also said no
9 sweat, our preliminary reports can be put in in 75
10 days, and they are going to be substantially
11 correct, so just wanted to make that comment.

12 MS. HOLMES: Thanks, we won't be
13 surprised then.

14 MR. McLAUGHLIN: Yeah. Thank you very
15 much.

16 MS. HOLMES: So any other concerns about
17 section 1303?

18 Section 1304, I don't imagine people are
19 upset about us dropping monthly data of the 1 to
20 10 megawatt facilities.

21 We've also clarified some of the
22 language. Again, I think this was in response to
23 concerns that we're getting the information that
24 we need for the cogenerators. We have modified
25 slightly the language on the cogeneration, and I

1 think that everybody was on board with those
2 changes.

3 So, unless I hear otherwise, I will
4 assume that we have accurately captured what we
5 said we were trying to get on the sales
6 information from the -- and fuel use information
7 from the cogenerators.

8 The environmental information, quite
9 frankly I can't remember what it looked like on
10 the last version, so I'll just summarize it.
11 We're asking for information about water supplies
12 and wastewater discharges and information about
13 biological resources that gets filed with other
14 entities, or as a result of contractual
15 information.

16 I know there's been some concern
17 expressed about this could be volumes and volumes
18 and volumes and volumes of data. And I'm hoping
19 that you will work with us as we go through the
20 forms and instructions process on the QFER side
21 and let us know what the best way is for you guys
22 to meet those requirements. Because we certainly
23 don't have an interest in collecting lots of
24 information we don't use.

25 I was reluctant to recommend that we

1 limit it at this point because we want to make
2 sure that each time we collect something like
3 that, that we have the context of the report. So,
4 if there's any residual concerns about it, now is
5 the time to speak up.

6 MS. TRELEVEN: I do have an additional
7 comment to make. This is Kathy Treleven, PG&E.
8 And I'm very --

9 MR. BROWN: Caryn, can you reiterate or
10 restate your last comment there?

11 MS. TRELEVEN: Caryn or Kathy?

12 MR. BROWN: (inaudible).

13 MS. TRELEVEN: Okay.

14 PRESIDING MEMBER PFANNENSTIEL: Kathy,
15 is your mike on? Maybe --

16 MS. TRELEVEN: Oh, it's not on. Okay,
17 this is Kathy Treleven, PG&E. This is a comment
18 I'm almost reluctant to make because I do trust
19 the QFER process, and I do trust that we can work
20 this through with the staff.

21 But, some of my lawyers pointed out
22 staffs don't last, Commissioners don't last, and
23 things in regulations remain in place.

24 COMMISSIONER GEESMAN: Even lawyers
25 don't --

1 (Laughter.)

2 MS. TRELEVEN: On page 33, you know, you
3 had made the change to ask just for backup filings
4 to provide this data, and we think that's great.

5 However, you are asking for all reports
6 or filings. And some of our lawyers have felt
7 that this is not only a voluminous burden, but a
8 searching burden, and if there's a way to address
9 that, that word "all".

10 It seems possible to me when we're on
11 the same page that just saying reports or filings
12 that are required would lessen that sense of
13 necessary searches and address the issues some of
14 our lawyers have raised.

15 MS. HOLMES: I can certainly -- deleting
16 the word "all" is not likely to cause problems. I
17 had considered trying to add language indicating
18 that we're only interested in relevant
19 information. And then I thought about how getting
20 that defined enough to get it through the
21 regulatory process. And I didn't try any more,
22 because I didn't think I was likely to be
23 successful.

24 But, certainly deleting "all" is
25 something that wouldn't be a problem, so that's an

1 acceptable and an easy change.

2 MS. TRELEVEN: And I promise to work
3 with you.

4 MS. HOLMES: Right. Any other comments
5 on the environmental information?

6 MR. KLATT: Caryn, you'd made one
7 comment about asking for information that gave you
8 the context, and I wasn't clear on your comment
9 there.

10 MS. HOLMES: What I'm hoping that the
11 way this process will work, is that when there's
12 going to be forms and instructions that will be
13 adopted that specify that we're looking for
14 information that's relevant to a specific
15 wastewater issue or a water supply issue.

16 And that when it comes time to file
17 something that the people who need to file will
18 work with the Energy Commission Staff to make sure
19 that we're not collecting vast amounts of
20 information that we're not using.

21 In other words, if there's a report that
22 has several hundred pages, and only one or two
23 pages of it has to do with characterization of the
24 wastewater, we obviously want the
25 characterization. And then we're going to want

1 any other information that's relevant to how that
2 was created or why it's being created, or for what
3 purpose, as well as just the results, itself.

4 But I don't think that that's very
5 amenable to capturing in the regulations. And
6 that's why I'm hoping that we can do some
7 narrowing in the forms and instructions, and then,
8 again I'm hoping that the filers and the staff
9 will work together when those kinds of issues
10 arise.

11 Does that answer your question?

12 MR. KLATT: That's helpful; and in the
13 context of that discussion, could there be an
14 instance where say there were multiple reports,
15 but they're essentially saying similar stuff, that
16 you'd be okay with one document, as opposed to,
17 you know, a lot of repetitive material?

18 MS. HOLMES: Right. If you're reporting
19 the same test results ten times, I don't think we
20 need to see them ten times. We can see them once.

21 MR. KLATT: Okay, well, we'll watch for
22 the forms and instructions discussion then.

23 MS. HOLMES: Okay, thank you.

24 MR. McLAUGHLIN: I have a question.

25 MS. HOLMES: Yes.

1 MR. McLAUGHLIN: Bruce McLaughlin, CMUA.
2 Just a clarification. I did ask staff on this,
3 but I'm not sure I quite understand yet. We've
4 got, I think, 2(a)(5), '(b)(5) and '(c)(5) where
5 you're looking for megawatt hours consumed onsite
6 by the power plant owner other than for plant use,
7 classified by customer classification.

8 I don't know what kind of physical setup
9 that would be.

10 MS. HOLMES: Andrea, do you want to give
11 an example?

12 MS. GOUGH: I think we spoke about --
13 don't remember the name of that plant now, but
14 like a paper company that has a generator, and
15 part of that power is going for the industrial
16 process of papermill or whatever.

17 MR. McLAUGHLIN: Yeah, I'm familiar with
18 the papermill industry, and so that's what came to
19 my mind. So you're looking for very specific
20 information in that section; particular industries
21 maybe might have a physical structure where
22 there's another company located within their
23 fence, so to speak?

24 MS. GOUGH: Correct.

25 MR. McLAUGHLIN: Okay. Thank you.

1 MS. HOLMES: Any other questions on
2 1304, or comments on section 1304?

3 1305, I don't think -- well, I guess
4 there are some -- I don't know if there are any
5 control area operator representatives here. Any
6 questions on 1305?

7 Section 1306. Again, this was modified
8 to try to -- in response to comments and
9 conversations we had to make sure that we were
10 accurately characterizing the right information
11 being provided from the right entities.

12 Do we have any concerns about the
13 language in section 1306?

14 MR. KLATT: Yeah, this is Greg Klatt for
15 ARM. 1306(b)(2), I'm still concerned about the
16 use of the term revenue to refer to generation
17 cost. Just because the whole concept causes a
18 revenue requirement, which that term appears to be
19 getting at, is not applicable to ESPs. And it's a
20 bit confusing.

21 I'm wondering if we couldn't just refer,
22 you know, just take up -- strike the term revenue
23 and refer to generation costs.

24 MS. HOLMES: So you'd be happy with
25 something that says report the aggregation of all

1 generation costs expressed in dollars during each
2 of the previous months classified by --

3 MR. KLATT: That'd be great. Just to
4 avoid a situation, you know, where a couple years
5 from now, you know, someone looked at this, you
6 know, and says, well, I'm not sure what they're
7 getting at.

8 MS. HOLMES: Right, and it --

9 MR. KLATT: Revenue requirement, or do
10 they want, you know, all the costs, and so that's
11 all.

12 MS. HOLMES: Right, and that would not
13 change the information we're collecting, since --

14 MR. KLATT: No, it would not be a
15 substantive change.

16 MS. HOLMES: Okay, thank you.

17 MR. KLATT: Thanks.

18 MS. HOLMES: Any other comments on
19 section 1306?

20 Any comments on 1307 through 1310, the
21 gas information? No. Well, this is going well.

22 Section 1311, I believe we have -- Mike,
23 do you have a question? One moment.

24 DR. JASKE: Mike Jaske, CEC Staff.

25 Let's go back to 1306(b)(2).

1 I think one of the reasons that the word
2 revenue is there, as opposed to generation cost,
3 is that we want to know what the ESP is charging
4 the customer. And I think, as commercial
5 businesses, they're likely to have a margin on top
6 of their costs, which in fact, is the price that
7 the customer is paying.

8 And we want to know what the customer is
9 paying. That is the focus, that's the purpose of
10 this. So it's the charges to the customer that
11 are predicated on providing generation services.
12 But they're not just the generation costs.

13 COMMISSIONER GEESMAN: But the way
14 you've got it drafted here, Mr. Jaske, is that
15 they are just the generation costs --

16 MR. KLATT: With that idea, you know,
17 because it's whole price being charged, would that
18 be captured in, what is it, 1348?

19 MS. HOLMES: 1348 is a forecast; we've
20 deleted the historical price information.

21 MR. KLATT: I see, so that kind of
22 dropped out.

23 DR. JASKE: Right, so this really is now
24 the only source of historic price, if you want to
25 call it that, price information that ESPs are

1 providing. And just like ESPs are providing to
2 EIA, we want to get the price, average price, by
3 these broad customer classes.

4 MR. KLATT: -- the language in the EIA
5 data request? I don't have it in front of me, I'm
6 sorry --

7 DR. JASKE: And I don't, either. So,
8 the Committee is agreeable to us trying to work
9 out some words offline that express the notion of,
10 in effect, the price or the charges for generation
11 services. I think that was what we intended, and
12 I believe that's what ESPs submit to EIA.

13 MR. KLATT: Right.

14 DR. JASKE: That we can try to find some
15 language that works.

16 COMMISSIONER GEESMAN: Yeah, I think
17 that would be fine. I think the way you've got
18 paragraph (b)(2) now is a bit misleading and
19 ambiguous. But I have a better understanding from
20 the dialogue as to what you're driving at.

21 If I can attribute concurrence to Mr.
22 Klatt, I think I'm hearing that he doesn't have a
23 problem with that, either.

24 MR. KLATT: Yeah, I can go back, you
25 know, of course, and check with our members, but I

1 think that would be fine, you know, that
2 information's already being reported to EIA. So,
3 I believe it will be okay as long as we can work
4 in the correct language to describe it accurately.

5 DR. JASKE: Okay, I'll talk with Mr.
6 Klatt offline.

7 MS. HOLMES: Jumping ahead again to
8 section 1311, this is the energy efficiency
9 program information from local publicly owned
10 utilities. It's language that our staff's worked
11 closely with CMUA and others, NCPA, and I don't
12 know -- I don't believe there's any issues. Does
13 anybody have any questions or comments on that
14 section?

15 All right. Section 1342. What you see
16 there is that the exemption language that had been
17 proposed has been removed, because we're proposing
18 to keep the exemption language in section 1350.
19 Any comments or questions about section 1342?

20 I don't believe there were any changes
21 to section 1343, which is the end-use survey
22 information.

23 Section 1344 is the load metering
24 reports, and again we tried to work with the
25 utilities on this section. Are there any

1 particular concerns, comments, questions about
2 section 1344?

3 This is pretty nice on a Monday, I have
4 to say.

5 Section 1345, this is our demand
6 forecast section, and probably the most
7 significant change, I believe there's been some
8 reordering, but I think the most significant
9 change is that the Committee has opted for a ten-
10 year demand forecast for everybody that is subject
11 to the reporting requirements. All LSEs and gas
12 utilities, unless they are otherwise exempt. Are
13 there any questions or comments about section
14 1345?

15 Section 1346, I know that we have got
16 questions or comments from Mr. Brown. Do you want
17 to start? Andy, are you there?

18 MR. BROWN: Sure. I can actually boil
19 it down pretty quickly. The section is addressing
20 LSEs generally. There is some information that's
21 asked for in here, particularly 1346(a)(3)(A) and
22 (a)(3)(B), as well as (a)(4), where the ESPs may
23 not have the kind of information you're looking
24 for.

25 It seems that some of the --

1 particularly things like, you know, the extent of
2 asset utilization. ESPs will, you know, contract
3 for RA capacity per the rules, but they won't
4 necessarily know whether and to what extent the
5 capacity ends up getting dispatched by ISO, or
6 it's scheduled to meet somebody's energy needs.

7 So, I just wanted to highlight that. I
8 don't know if it means that, you know, the regs
9 should be adjusted to reflect that distinction.
10 Or, I don't think so. I think it's just the kind
11 of thing that the data set that you'll get will,
12 you know, some of the ESPs won't have that kind of
13 information.

14 Similarly, 13 -- well, I'll wait till we
15 get to 1347.

16 DR. JASKE: I think all that staff is
17 asking for here is to the extent that these, that
18 A&E restrictions are known, that they be
19 identified, if --

20 MR. BROWN: Yeah, and I think in terms
21 of dispatchability, some of that information, it
22 may be easier and more effective to get it
23 directly from ISO, to the extent that they're
24 doing the studies on dispatchability limitation.

25 For example, you know, generation

1 pockets or something like that.

2 The same with the asset utilization. It
3 may be the kind of information that could be
4 secured from ISO. But I don't know. It seems to
5 me that they'd be the best repository of that
6 information, or source.

7 MS. HOLMES: Any other comments or
8 questions on section 1346?

9 MR. ZETTEL: Nick Zettel from the City
10 of Redding Electric Utility.

11 Section (b) (4) (B), Dr. Jaske knows this,
12 that he's on the resource adequacy guidelines task
13 force at the WECC to develop resource adequacy
14 guidelines for the western interconnection.

15 Right now for municipal utilities we're
16 not aware of a WECC guideline that specifically
17 states you must meet this reserve amount and these
18 sort of things.

19 And I'd just like to commend the
20 Committee here for the great work they did in
21 giving flexibility in the reporting; and Bruce,
22 CMUA, did a lot of good work here.

23 Because when it first came out we took a
24 look at it and it was going to be a kind of a
25 fill-in-the-blank thing here, and I was getting a

1 little worried because each municipal utility has
2 got a different way of handling resource adequacy
3 without the WECC guideline that's developed.

4 This may be important, it may not. But
5 you may want to add language in (b)(4)(B) that
6 says, established by WECC, or yet to be -- but,
7 you know, because there's no real requirement
8 right now from the WECC. I would maybe add future
9 requirement from the WECC.

10 DR. JASKE: Perhaps we can weave in
11 there established by WECC, if any, or, you know,
12 some kind of --

13 MR. ZETTEL: If any, yeah, something
14 like --

15 DR. JASKE: -- qualifier of that sort.

16 MR. ZETTEL: Because I'm worried that a
17 lot of the municipal utilities will see that and
18 start scrambling looking for a standard that
19 doesn't exist yet, so. That's it.

20 DR. JASKE: So we'll work out a
21 conditional --

22 MR. ZETTEL: Yeah.

23 DR. JASKE: -- kind of thing that will
24 mitigate that.

25 MS. HOLMES: Thank you. Bruce.

1 MR. McLAUGHLIN: Yeah, I guess, without
2 being overly obsequious, this is a good time for
3 me to praise the staff. This has been a
4 fantastic, I think, exercise here, where staff
5 gave certainly CMUA members ample opportunity to
6 discuss all their issues. We met with staff
7 privately many times. Staff led workshops, et
8 cetera.

9 So I just would like to thank the
10 Committee and staff for the professional nature of
11 this proceeding.

12 MS. HOLMES: Well, thank you. It
13 certainly helps to have people come and tell us
14 what works and what doesn't work, so it's a two-
15 way street. And I know that you guys worked hard,
16 and that's helped us a lot, as well.

17 Any other comments on section 1346,
18 resource adequacy?

19 1347, again you see that the forecast
20 period is ten years for all entities that are
21 subject to the reporting requirements. Are there
22 any comments or questions about this section of
23 the regulations?

24 MR. BROWN: Caryn, it's Andy Brown for
25 Constellation. Just in terms of 1347(b)(2) where

1 they're asking for information regarding certain
2 environmental characteristics of generators
3 providing the capacity.

4 Again, like the comment before, probably
5 not the kind of information ESPs will have.

6 MS. HOLMES: We understand that. That's
7 actually existing language in the regulations.
8 It's just been folded into both subdivisions (a)
9 and (b).

10 MR. BROWN: Okay. I just saw it as a
11 addition into (b)(2).

12 MS. HOLMES: No, it's in (a)(2), as
13 well, and if you look at the -- if you have the
14 version that was passed out in preparation for
15 this workshop, if you look on page 70 at the
16 stricken subdivision (b), that's where the
17 language comes from. In other words, the language
18 wasn't really stricken, it was moved. That's just
19 the way we have to display it for purposes of the
20 rulemaking process.

21 But we understand that the response may
22 be, we don't know. That's not an issue.

23 MR. BROWN: Okay, thank you.

24 MS. HOLMES: Any other comments on
25 section 1347?

1 MR. KERNER: Douglas Kerner with
2 Independent Energy Producers. This has less to
3 do, I think, with the way you propose to do this,
4 with which we are also quite pleased and thankful
5 for your cooperation.

6 I do have -- there's a contemporary
7 issue arising here; it has to do with struck-out
8 section 1347(b) on the bottom of page 70, which
9 was part of what was proposed to be in another
10 section that, I think in part in our request, that
11 no longer exists. But is this being enforced
12 today? My understanding is that data requests
13 have gone out asking for this.

14 MS. HOLMES: Well, first of all, the
15 language from subdivision (b) that's stricken on
16 page 70, is still proposed to be included under
17 (a)(2) and (b)(2) on the next page.

18 So it was difficult in many sections
19 figuring out how to write this. There were many
20 situations in which it made more sense, in terms
21 of the readability, to strike language and then
22 put it back into a later section.

23 I ended up, for example, as you know,
24 redoing all of the definitions in part because it
25 got to be too difficult to do that.

1 So that language is in existence today.
2 It's in the official version of the regulations;
3 and it's proposed to be in the regulations, as
4 amended. It's just that it would be reflected
5 twice because we've separated out the resource
6 plan information into the UDCs and the nonUDC
7 LSEs.

8 So that's not a change. In terms of
9 what's gone out for this cycle, I'm not working on
10 it, and I can't answer that question. But there
11 is not going to be any change to the existing
12 language.

13 MR. KERNER: I see now what you've done.
14 The deletion from the prior version -- the
15 applicability to generators is what has kind of
16 come and gone. Is that basically --

17 MS. HOLMES: That's correct, because you
18 used to have -- that's correct.

19 MR. KERNER: Okay.

20 MS. HOLMES: Because it used to say
21 electric utility. And now it says LSEs that are
22 not UDCs and LSEs.

23 MR. KERNER: I understand; thank you.

24 MS. HOLMES: Any other questions on
25 section 1347?

1 PRESIDING MEMBER PFANNENSTIEL: Caryn, I
2 have one, maybe I missed somewhere along the line.
3 But the description or the writeup on page 70 says
4 each LSE shall submit its resource plan, meaning
5 forecasted demand. It doesn't say ten years.

6 MS. HOLMES: That's because it's tied
7 to, or perhaps it's -- either it's a mistake --

8 PRESIDING MEMBER PFANNENSTIEL: I don't
9 find where --

10 MS. HOLMES: Either it's a mistake or
11 it's tied to the section 1345(a) which is the
12 demand forecast.

13 PRESIDING MEMBER PFANNENSTIEL: -- which
14 is the ten years.

15 MS. HOLMES: Right.

16 PRESIDING MEMBER PFANNENSTIEL: Okay.

17 MS. HOLMES: We had some discussion at
18 some point and I thought we decided to leave them
19 tied together.

20 PRESIDING MEMBER PFANNENSTIEL: I
21 remember that discussion, but I didn't realize
22 that that's where the ten years showed up.

23 MS. HOLMES: Yeah.

24 PRESIDING MEMBER PFANNENSTIEL: Okay.

25 MS. HOLMES: Any other questions on

1 section 1347?

2 And I see that in 1348 it does
3 specifically state ten years.

4 PRESIDING MEMBER PFANNENSTIEL: Yes.

5 MS. HOLMES: So I did it one way in one
6 section, and another in the other. Any questions
7 about the, I believe that the proposal, the
8 significant amendments to this proposal is the
9 naming, or establishing the ten-year deadline, and
10 then dropping the request for historical prices.
11 Any comments, questions, concerns about 1348?

12 MR. KLATT: Again, this is Greg Klatt
13 for ARM. Just want to -- this goes back to the
14 other sections, too. Just want to verify that the
15 ten-year is the default that's intended to give
16 the staff of the Commission flexibility to request
17 up to ten years.

18 When we get to the forms and instruction
19 stage we'll be looking at what's practicable and
20 useful in terms of information that the ESPs can
21 actually provide.

22 MS. HOLMES: Ten years is -- I wouldn't
23 say it's a default, it's the maximum. So, we
24 can't ask for more under this proposed language,
25 so that the, unless the Committee were to hold

1 another proceeding and institute some sort of an
2 order or something, which I don't anticipate. The
3 ten years is what we're looking for.

4 And you're right, the usefulness of that
5 information is something that the Committee will
6 be looking at in each cycle. So you might see
7 that, you know, one cycle it is ten years, but
8 another it may be a shorter period of time. And
9 it may be shorter for some entities than for
10 others, depending upon the length of time for
11 which entities are forecasting.

12 MR. KLATT: Thank you.

13 MS. HOLMES: There were no changes to
14 1349, other than, I believe, there had been a
15 grammatical error that we corrected.

16 And then in section 1350, this reflects
17 the understanding that the staff reached with the
18 parties, or that we believe that we reached with
19 the parties regarding the exemptions. It
20 basically now says that if we get the information
21 in section 1346, that the smaller entities do not
22 need to comply with the other sections.

23 Any questions, concerns, comments about
24 section 1350?

25 MR. McLAUGHLIN: Bruce McLaughlin, CMUA.

1 Just a comment. Thank you very much. Whether
2 this was driven by Committee and agreed to by
3 staff, it does not matter. The end result is
4 we're very appreciative, thank you.

5 MS. HOLMES: Any other comments or
6 questions?

7 MR. BROWN: Caryn, this is Andy Brown.
8 The only question was relative to the definition
9 of small; asking whether or not a forecast year
10 where you may be under that threshold could count
11 as one of the two years?

12 MS. HOLMES: I'm not sure I understand
13 the question, I'm sorry.

14 MR. BROWN: The way it's defined now,
15 you can only take advantage of this section to the
16 extent you meet the definition of small. And for
17 some ESPs you can be anticipating load migration,
18 et cetera.

19 So if you were going into a year and you
20 expected the next year you'd also be under 200,
21 could you qualify then? That's sort of the nature
22 of the question.

23 MS. HOLMES: So two years back you're --

24 MR. BROWN: Right now it's set up as two
25 years --

1 MS. HOLMES: Right.

2 MR. BROWN: -- historical, as opposed to
3 anticipating that the coming year you're going to
4 be under, too. So, year one you were under 200,
5 but you had to file because you'd just been under
6 200 for one year. And then the next year you
7 expect that you're going to be under 200 again.
8 And at that point you want to ask for the
9 exemption.

10 DR. JASKE: I think that that's
11 something that the Committee could probably deal
12 with in a particular forms and instructions cycle.

13 MR. BROWN: Very good.

14 MS. HOLMES: Thank you. Any other
15 questions on 1350?

16 Confidentiality. Sort of two broad
17 categories. Changes one makes it explicit that
18 the governmental entities can file petitions, or
19 excuse me, applications for confidentiality.

20 And then second substantive change has
21 to do with the fact that we added a category of
22 automatically confidential data that consists of
23 information whose release is protected under the
24 Information Practices Act.

25 It's a bit duplicative of existing law,

1 obviously, but there was so much concern about
2 customer information, and frankly, just from the
3 perspective of letting the parties that submit
4 this information know that the Commission is
5 really serious about not releasing customer-
6 specific information, we thought it would be a
7 good idea to include that language.

8 And I know, as I said, that there were
9 requests for other categories, that other
10 categories be included, but we've decided that
11 it's probably a better way to go is to rely on
12 certification; the information's been submitted in
13 the past and the Executive Director has found it
14 qualifies for confidential treatment; or the
15 Commission has the regulations allow you to submit
16 a certification saying that the confidentiality of
17 the specific information you're providing meets
18 that definition, and that its confidentiality
19 hasn't been compromised.

20 I think that that's a better way than
21 putting lots and lots and lots of categories in
22 the regulations. If there's any chance that
23 something might be not confidential in the future,
24 it's not really appropriate, given the length of
25 time that goes on between rulemakings with respect

1 to confidentiality, I think the last one was ten
2 years ago or so.

3 One other thing related to that change
4 is that we put in language that makes it explicit
5 that you can rely on a previous Executive Director
6 determination. The current language talks about
7 relying on previous Commission determinations.
8 And as people know, there's only been one of
9 those, or two of those. So we wanted to make it
10 clear that the Executive Director determinations
11 were included in that subdivision.

12 So that if you're submitting information
13 that the Executive Director has previously said is
14 entitled to confidential designation, you can rely
15 on that in submitting your certification.

16 Are there any questions, concerns,
17 comments about confidentiality?

18 That's got to be a first.

19 (Laughter.)

20 MS. TRELEVEN: Just to repeat a comment
21 I may have made already. We really appreciate the
22 short-term nature, or the change to allow us to
23 send confidential applications in an abbreviated
24 manner. It may ironically turn out that it's
25 going to be easier to protect information in front

1 of the Energy Commission than the CPUC now that
2 the CPUC has got a more complicated process. We
3 really appreciate it, thank you.

4 MS. HOLMES: Any other questions or
5 comments?

6 Well, it seems that I'm at the end of my
7 presentation on changes to the regs. We have a
8 couple of areas where we're going to work. I have
9 notes that we're going to work on report
10 information that Ms. Treleven raised in section
11 1304.

12 We're going to work on some language in
13 section 1306 with Greg Klatt having to do with the
14 definition of the financial information that we're
15 looking for.

16 And then we're going to respond to the
17 City of Redding's concern about the fact that
18 there are no WECC guidelines that are applicable
19 to them in -- excuse me? Yes, Dr. Jaske.

20 So, I think that summarizes the changes,
21 the concerns, comments that I heard here today.
22 Do anybody have anything else to add at this point
23 before I turn it back over to the Committee?

24 MR. KLATT: Well, just before we move
25 on, this is Greg Klatt, I wanted to echo the

1 comment praising staff and Caryn, everyone else
2 who has worked on this, for a tremendous effort
3 and being very receptive to concerns and
4 considerations. And, you know, working through,
5 you know, more than 60 pages of regulations to
6 come up with a set of regulations that everyone
7 feels very comfortable with. You know, kudos.
8 I'll just leave it at that.

9 PRESIDING MEMBER PFANNENSTIEL: Well,
10 thank you, Caryn and Chris and Mike, and everyone
11 here. Are there questions from the dais on the
12 regs?

13 COMMISSIONER GEESMAN: Make a brief
14 comment. I, too, certainly want to commend the
15 staff for the skillful way you've handled the last
16 several months as we've gone through multiple
17 iterations on this.

18 But I would also extend that to the
19 stakeholders and their counsel. We benefit
20 greatly by your sustained focus on this. I
21 recognize that it has taken a fair amount of your
22 time, and presumably of your clients' resources.
23 But we're much better off for that. And I
24 certainly want to thank everybody for the amount
25 of attention you've been able to devote to this.

1 PRESIDING MEMBER PFANNENSTIEL: I'd
2 actually just like to say that this is an
3 enormously important exercise, and it's hard and
4 tedious at times. And going through it hasn't
5 been fun, I think, for any of us.

6 But it's important because it's a
7 fundamental part of what the Energy Commission is
8 charged with doing. And we both need to do it
9 right, but we need to do it in a way that is
10 respectful of the issues and difficulties of all
11 the various players.

12 So, yes, staff did a marvelous job of
13 bringing this together. And the parties, though,
14 also did a marvelous job of being open and working
15 and collaborating with us.

16 So, with that, I think we are concluded
17 for today. And there will be -- oh, Mr. Tooker
18 has the last word.

19 DR. TOOKER: Hopefully not the last
20 word. Usually in previous workshops we've talked
21 about next steps. You may want to talk about that
22 now?

23 PRESIDING MEMBER PFANNENSTIEL: You
24 certainly may. What are the next steps, Chris?

25 MS. HOLMES: Since they're mine, I guess

1 I should be answering that question.

2 I'm working on preparing the documents
3 that have to be filed with this package, with the
4 Office of Administrative Law. I will thank
5 everybody who's here, has been here before, but I
6 will summarize the way this process works.

7 Once again, when we are ready to begin
8 what I call the formal process, we publish a
9 notice; we public express terms in the form that
10 you see them here, underline and strikeout
11 version; and we make available something called
12 the initial statement of reasons that goes through
13 the rationale for each and every change.

14 I'm anticipating at this point that we
15 should be able to complete that process by the end
16 of September. I would like to be able to do it
17 before, but it's fairly tedious. We have to do
18 cost estimates and we have to do a line-by-line
19 discussion of the changes. And I don't know that
20 I'll have staff available to finish it, to work
21 with me to finish it before then.

22 So, I'm anticipating by the end of the
23 month at the latest we would be filing this
24 notice, and the express terms, and a statement of
25 reasons.

1 We then have a 45-day public comment
2 period. And if you're not happy with something,
3 that's your last chance to weigh in on it. Other
4 people may -- too, who haven't participated, may
5 weigh in on it.

6 The Commission holds a hearing at which
7 it formally adopts the regulations. If it wants
8 to make changes in addition to what it noticed, it
9 must have an additional notice period.

10 Once the Commission adopts the final
11 regulations, we prepare a final package that is
12 submitted to the Office of Administrative Law. It
13 has a couple of other determinations that have to
14 be made regarding alternatives and costs, and it
15 has to have a response to each and every comment
16 that was raised. OAL has roughly six weeks to
17 review that.

18 And then if they approve the package the
19 regulations either become effective 30 days after
20 that. Or if we request, they become effective
21 immediately. And we'll see where we are in the
22 data collection cycle at the time that we're ready
23 to decide whether we want to request that the
24 regulations go into effect immediately or not.

25 Does anybody have any questions about

1 that process?

2 MR. KLATT: Caryn, for those of us who
3 are somewhat less completely familiar with the ins
4 and outs of the Administrative Procedure Act, --

5 MS. HOLMES: Count your blessings.

6 MR. KLATT: -- about how long that
7 process is expected to take before we get final
8 regs?

9 MS. HOLMES: Well, if we have -- the
10 adoption would be at some point in October. And
11 then depending upon the extent of comments, --
12 excuse me, the extent of comments that we receive
13 will largely determine how long it takes to pull
14 together the final package.

15 Assuming that there isn't much filed we
16 would get a package to OAL presumably by the
17 beginning of November. And they, then, have
18 roughly six weeks to approve.

19 So the earliest they are likely to be in
20 effect is beginning to middle of January.

21 And that's why I'm saying that at that
22 point we'll see where we are in the data
23 collection process, to see whether or not we want
24 them to become effective immediately. If there's
25 something going on and we want to rely on these

1 new regulations, then we would be requesting that.
2 And if there's no need, there's no data collection
3 activities that we see happening in that 30-day
4 window, we probably would not do so, since it
5 requires additional justification.

6 Does that --

7 MR. KLATT: Thank you. I wasn't clear
8 particularly about that last 30-day period, how
9 that worked, so.

10 MS. HOLMES: If there's a good reason to
11 have them go into effect immediately, OAL usually
12 permits that, since it's following a public
13 process and where the affected parties have been
14 notified and been offered the opportunity to
15 participate.

16 But if there's no reason to do it,
17 generally speaking it's frowned upon, so we would
18 need to justify it. And I think that if there is
19 a filing in which we want to rely on the new
20 regulations that would be a good justification.

21 So we'll just have to wait and see where
22 we are at the time.

23 DR. TOOKER: I have a few comments.
24 Notwithstanding what we've accomplished to date,
25 and I appreciate everybody's continuing

1 involvement, I would like to ask the participants
2 to continue a little bit further.

3 And that is because we are going to be
4 meeting in staff this week to start the process of
5 preparing economic and fiscal impact statements,
6 which are quite detailed. And they require that
7 our staff contact some of you whom they are
8 familiar working with, to get the information
9 that's needed to go into those statements.

10 And we need to develop those, and
11 provide that information to Caryn to put into the
12 package. And so I would request your continuing
13 availability to provide us with critical
14 information we need to move forward.

15 MS. HOLMES: One other last caveat. As
16 I said at the beginning, I think that there are
17 still some, I believe, solely procedural kinds of
18 tweaking that we are going to need to do to these
19 regulations as we walk through to prepare a final
20 package.

21 And I'm sure that if there are any
22 problems in that process, I'm sure you can count
23 on the Committee to let you know what's going on.
24 So things might be in a different order; or they
25 might look a little bit different.

1 Our intent, as we prepare the final
2 proposal is not to change any of the substance of
3 it, but we may need to fuss with some of the
4 grammar and the phrasing and whatnot in order to
5 meet the standards that OAL imposes on
6 rulemakings.

7 PRESIDING MEMBER PFANNENSTIEL: Anything
8 further?

9 MR. KLATT: Actually, that, you know, --
10 this is Greg Klatt again, sorry to go on at
11 length, but, Caryn, what you just said kind of
12 teed up what I was thinking about. After the
13 regulations are in place, then we go to the forms
14 and instructions drafting stage.

15 Could you provide any guidance on how
16 you would anticipate that working?

17 MS. HOLMES: Well, for the CFM
18 regulations, as you know from having participated
19 in past IEPR cycles, the Committee holds workshops
20 and takes comments from parties before it drafts
21 forms and instructions. And then those go to the
22 full Commission.

23 The QFER process is different. I don't
24 believe that the QFER forms and instructions are
25 required to be approved by the full Commission,

1 although I believe in the past they have been.

2 And I would anticipate, it's been many
3 years since we've updated the QFER forms and
4 instructions, but I would anticipate that it would
5 be similar to the forms and instructions that get
6 adopted for IEPR cycles; and that there would be a
7 workshop.

8 They do not get updated on a regular
9 basis the way the forms and instructions for the
10 IEPR process do, because that, of course, is on a
11 two-year schedule.

12 So the current QFER forms and
13 instructions, I believe, have been in effect,
14 Mike, for at least ten years?

15 MR. KLATT: So if we do it, we do it
16 together, the QFER and the other forms or
17 reporting requirements, on a consolidated basis
18 most likely?

19 DR. JASKE: Not necessarily, Greg.
20 Because some of the really mundane details of
21 reporting, you know, there's quite different sets
22 of people involved.

23 For example, SIC coding of the
24 consumption data, you know, is not the people that
25 do forecasts.

1 MR. KLATT: Okay. Either together,
2 or -- sounds like it's parallel, we're looking at
3 what, three to four months after we get the final
4 regs? Get the forms and instructions finalized?

5 DR. JASKE: I think probably faster than
6 that.

7 MR. KLATT: Okay.

8 PRESIDING MEMBER PFANNENSTIEL: Is that
9 it?

10 MR. KLATT: Thank you.

11 PRESIDING MEMBER PFANNENSTIEL: All
12 right, we'll be adjourned.

13 (Whereupon, at 11:07 a.m., the Committee
14 workshop was adjourned.)

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I, PETER PETTY, an Electronic Reporter,
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